

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE, CHATTANOOGA DIVISION**

SEAN AKINS,

Plaintiff

v.

**THE STANDARD INSURANCE
COMPANY**

Defendant

Case No. 1:16-cv-00125

NOTICE OF REMOVAL

Defendant and removing party, The Standard Insurance Company (“Standard”), by its attorneys, Warren von Schleicher and Jacqueline J. Herring of Smith, von Schleicher & Associates,¹ provides Notice of Removal of this action to the United States District Court for the Eastern District of Tennessee, Chattanooga Division, pursuant to 28 U.S.C. §1441 *et seq.*, and respectfully presents to this Court the following grounds for removal:

1. The removing party, Standard, is the defendant in the action captioned *Sean Akins v. The Standard Insurance Company*, No. 16C489, pending in the Circuit Court of Hamilton County, Tennessee. Plaintiff Sean Akins (“Plaintiff”) commenced this action on April 11, 2016, by filing a Complaint in the Circuit Court of Hamilton County, Tennessee.

2. On April 15, 2016, Standard was served with the Summons and Complaint. A copy of the Summons and Complaint are attached hereto as Exhibits 1 and 2, respectively. The Summons and Complaint constitute all of the process, pleadings and orders served on Standard.

3. Based on the date of service of the Summons and Complaint, Standard is required to file its Notice of Removal on or before May 16, 2016. Because Notice of Removal has been

¹ Warren von Schleicher and Jacqueline J. Herring contemporaneously filed their motions for admission *pro hac vice*, pursuant to LR 83.5(b)(1).

filed on or before May 16, 2016, Standard's Notice of Removal is timely pursuant to 28 U.S.C. §1441 and §1446. A copy of the Notice of Filing Notice of Removal to be filed with the Circuit Court of Hamilton County, Tennessee is attached as Exhibit 3.

4. Standard removes this action pursuant to 28 U.S.C. §1441 *et seq.* based on federal diversity jurisdiction under 28 U.S.C. §1332. The United States District Court for the Eastern District of Tennessee, Chattanooga Division, is the appropriate venue for removal of this action from the Circuit Court of Hamilton County, Tennessee.

5. Plaintiff is a citizen of the State of Tennessee, residing in Hamilton County, Tennessee. (Ex. 2, Complaint, ¶1). Standard is a corporation organized under the laws of the state of Oregon with its principal place of business in Portland, Oregon. (Ex. 2, Complaint, ¶2). Standard, therefore, is a citizen of the State of Oregon. Accordingly, complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. §1332.

6. In his Complaint, Plaintiff asserts claims for payment of benefits under a Group Long Term Disability Insurance Policy ("Group Policy") issued by Standard to his former employer, The University of Alabama System, and for bad faith statutory penalties under Tenn. Code Ann. § 56-7-105.

7. The value of Plaintiff's claim for benefits exceeds \$400,000. Plaintiff demands payment of past due benefits "and that the Court order the Defendant to pay the amount of future contract benefits that the Plaintiff would receive had the contract been honored by the Defendant." (Ex. 2, Complaint, Prayer for Relief, ¶¶1, 3). Plaintiff's monthly benefit amount is \$1,537.67 (gross monthly benefit of \$2,259.67 less Deductible Income in the monthly amount of \$722.00). (Ex. 4, Claim Overview). The Maximum Benefit Period under the Group Policy is to age 65. (Ex. 2, Complaint at Ex. A, Group Policy, pg. 3). Standard closed Plaintiff's claim

effective October 29, 2014. (Ex. 2, Complaint, ¶20). The Maximum Benefit Period for Plaintiff will end in April 2038 when he reaches age 65. (Ex. 4, Claim Overview). The total amount of benefits, therefore, is approximately \$432,085.27 (281 months x \$1,537.67 = \$432,085.27, not discounted to present value). The benefit amount exceeds the jurisdictional minimum for federal diversity jurisdiction. See 28 U.S.C. §1446(c)(2) (“the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy”).

8. In addition, Plaintiff seeks bad faith statutory penalties under Tenn. Code Ann. § 56-7-105, which provides, upon satisfaction of the statutory provisions, for recovery of a statutory penalty in an amount “not exceeding twenty-five percent (25%) on the liability for the loss. (Ex. 2, Complaint, Count II and Prayer for Relief, ¶6).

9. Because complete diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs, Standard is entitled to remove this matter from state court to federal court pursuant to 28 U.S.C. §§1332 and 1441.

10. This Court has original jurisdiction over this matter based on diversity jurisdiction, and therefore the action is properly removed to this Court pursuant to 28 U.S.C. §1332, 28 U.S.C. §1441, and 28 U.S.C. §1446.

WHEREFORE, Removing Party and Defendant, The Standard Insurance Company, requests that the above titled action be removed from the Circuit Court of Hamilton County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Chattanooga Division.

Respectfully submitted,

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(pending admission *pro hac vice*)

By: /s/ Jacqueline J. Herring
Attorney for Removing Party/Defendant,
Standard Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2016, I electronically filed the foregoing with the Clerk of the above Court using the CM/ECF system. I further certify that a paper copy was sent via U.S. Mail to the following:

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